APPENDIX

The relevant portions of the report of the examiner in the Land Court proceedings appearing on sheets 33–35 of United States Exhibit for Identification 23, United States Exhibit CC original, are as follows:

> From this investigation I am of the opinion that the title is not shown by any record to be in the petitioner.
>
> The Court of Land Registration undertakes to insure title to the premises for the Territory of Hawaii.
>
> If the Territory of Hawaii, as shown by its own claims, includes the Island of Palmyra (or more properly a group of islands by that name, in this report) I have no further concern.
>
> The Territory of Hawaii has called my attention to data relating to the subject of the claim by the United States, which is not the subject of any investigation or subject to be passed upon by this report, except as preliminary to taking up the subject of the title.
>
> Second. The title of petitioner is not shown of record because no conveyance has ever been made from the Government.
>
> Therefore, this tract is part of the public land subject to the control of the Commisioners of Public Lands.
>
> Third. Assuming that Z. Bent in 1862 had title to convey, the petitioner has not shown that he owns the whole interest as claimed.

P. 3 *of report* (Sheet 35):

> Taking up the discussion more in detail:
>
> First. I assume the jurisdiction of the Court, as one not open to investigation except in the peculiar relation of the Territory of Hawaii as an insurer of title of the holder of a certificate of title. The political department of the Government sets forth the bounds of the Territory and the Court will not go into that, further than to know that the political department has declared that the premises are within the bounds of the Territory of Hawaii.
>
> Second. The fee simple title belongs to the Territory of Hawaii unless the petitioner can show some conveyance from the Government. His abstract shows no such conveyance.
>
> In 1862 the Civil Code of 1859 provides, sec. 42, that the Minister of the Interior, etc., should have power to sell public lands, and a Royal Patent signed by the King was to issue to the purchaser in fee simple for any Government land conveyed (sec. 43). A faithful record of these conveyances was required to be kept (sec. 44).
>
> No such record appears (Note Sheet 11).
>
> Therefore, there is no showing that the island is private property.
>
> * * * * *

Report concludes (p. 5):

> I base my report upon the failure to show title from the Government, and upon the failure to prove any fee simple title to the whole premises. An undivided interest is not capable of registration. Also, the lack of description at present prevents the matter being finally considered until one is furnished.

Respectfully submitted.

P. L. WEAVER, *Examiner.*

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